

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on January 9, 2001 at 3 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Jack Wells, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Edward Butcher (R)
Sen. William Crismore (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Eve Franklin (D)
Sen. Debbie Shea (D)
Sen. Bill Tash (R)
Sen. Jon Tester (D)

Members Excused: None.

Members Absent: None.

Staff Present: Roberta Opel, Committee Secretary
Mary Vandenbosch, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 104, 1/7/2001
Executive Action: None.

HEARING ON SB 104

Sponsor: SENATOR MIKE SPRAGUE, SD 6, Billings.

Proponents: Robert Lane, Chief Legal Counsel, FWP
____ David Dittloff, Montana Wildlife Federation ____
Cynthia M. Kromm, Butte
Janet Ellis, Montana Audubon
Duane Johnson, Little Basin Creek resident
Melissa Tuemmler, President, Montana Trappers Assoc.
A.J. Michnevich, FWP
Marc Bridges, Montana Department of Livestock

Opponents': None

Opening Statement by Sponsor: SEN. MIKE SPRAGUE, SD 6, Billings, introduced SB 104. The bill, requested by Montana Department of Fish, Wildlife & Parks, (FWP), is a general revision of FWP enforcement statutes. It addresses several statute concerns including: penalty for wasted game, game warden responsibilities, dogs chasing wildlife and the improper feeding of wildlife. The bill also revises portions of trapping rules currently in place.

Proponents' Testimony: Robert Lane, Chief Legal Counsel for FWP, presented written testimony in support of SB 104.
EXHIBIT (fis06a01) The bill is intended to clarify FWP statutes, he said.

Wasted game statutes were revised in 1991 and include a 24-month loss-of-hunting privileges, **Mr. Lane** said.

FWP game warden's presently have authority to kill any dog that is attacking or killing hooved game animals. The public has concerns about wildlife harassed by dogs as well as social concerns for the killing of someone's pet, **Mr. Lane** stated, noting that FWP would prefer not to destroy a dog. SB 104 would allow FWP to cite a dog owner whose dog is harassing wildlife.

SB 104 also addresses Department concern for individuals who feed wildlife that attracts bears, Mr. Lane said. Problem bears are initially relocated and, in some instances, if problems persist, bears are destroyed. SB 104 established criminal sanction in those cases where individuals, who have been warned, continue to be negligent. The statutes incorporate a clear exception for

those feeding livestock and for garbage collectors, **Mr. Lane** added.

SB 104 would further require identification on all traps for the benefit of landowners and for purposes of enforcement. Trap identification could include either name, address or FWP Conservation License number.

David Dittloff, Montana Wildlife Federation (MWF), spoke in support of SB 104 stating the bill allows FWP to do their job. Mr. Dittloff said MWF wants to ensure access to Montana wildlife, provide adequate habitat for wildlife, and allow for management of wildlife by FWP.

Cynthia M. Kromm, Butte, testified in support of SB 104 **EXHIBIT (fis06a02)** Ms. Kromm cited numerous examples of dogs chasing and harassing wildlife. "Wildlife are always the loser and dogs are usually the culprit," Ms. Kromm stated.

Janet Ellis, Montana Audubon, testified in support of the bill with specific support for the portion of the bill that addresses feeding bears. SB 104 clarifies the law for citizens and gives bears a fighting chance not to become problem bears.

Duane Johnson, Little Basin Creek resident, urged adoption of SB 104 and submitted testimony documenting dog attacks on wildlife **EXHIBIT (fis06a03)** and photographs of property fences destroyed by dogs pursuing wildlife.

Melissa Tuemmler, President, Montana Trappers Association, testified in support of Section 4 of SB 104, trap identification. Trappers requested this portion of the bill.

A.J. Michnevich, appeared on behalf of FWP to express the need for game statute revisions allowing game wardens to issue citations to dog owners whose dogs chase or kill wildlife. Presently, there is no provision for wardens to cite a dog owner but they can destroy a dog if they witness it chasing or pursuing wildlife. Game wardens do not want to kill people's pets, **Mr. Michnevich** added.

Wildlife feeding generally causes problems for neighbors, **Mr.**

Michnevich said. People may not realize the problem of bears becoming habituated to humans and food sources. Metal tag identification on all traps via a FWP Conservation number is a good idea, he concluded.

Marc Bridges, Montana Department of Livestock, said he supported specifically the dog portion of SB 104 which complimented a similar statute of the Department of Livestock.

Marilyn Rundquist testified in support of SB 104 on her own behalf. She stated FWP should enforce loss of privileges for those who waste game. It is also common sense for FWP to be able to cite dog owners whose dogs are harassing wildlife, she said. FWP should retain its ability to dispatch these dogs. Criminal sanction for feeding bears is also common sense. Trappers should be required to place identification on their traps.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. JON ELLINGSON asked **Mr. Lane** to define "game animal" as it relates to the feeding of Canada geese and ducks along the river in Great Falls.

Mr. Lane stated that knowingly, and purposefully feeding game, when it is a threat to public safety, is the concern of FWP. The Department is not trying to prevent people from feeding birds, deer and elk and is not requesting that authority.

SEN. EVE FRANKLIN raised a question about commercial garbage processors.

Mr. Lane stated that livestock feeding and the commercial processing of garbage are not the main focus of SB 104.

SEN. ED BUTCHER said SB 104 should include a section addressing hunters who possess damaged game parts as well as a section related to hunters whose game animals are confiscated by game wardens.

Mr. Lane said there is no way to construct a statute that cannot

be abused. He stated SB 104 incorporates the same wasted game provision the Department has had in place for, perhaps, thirty or forty years. Hunters with game unfit for human consumption are issued another license.

Jeff Darrah, FWP Game Warden, stated duplicate licenses will continue to be issued to hunters who have game that is unfit for human consumption.

VICE-CHAIRMAN JACK WELLS suggested that lengthy dialogue on this particular subject should be addressed in Executive Session.

SEN. BUTCHER stated that he did not see language in the bill relating to dogs on private property. He said ranch dogs are often used to patrol haystacks and could be seen, by game wardens, as chasing or harassing deer when they are actually protecting haystacks. The concern is for personal dogs on private property, he said.

Mr. Lane stated this was not the intent of the current statute. The Department will continue to assert that dogs on private property that are seen attacking or killing livestock or wildlife could still be liable for criminal sanction.

SEN. BUTCHER asked if a landowner would be liable in situations where unharvested crops could attract bears.

Mr. Lane said there should be dialogue on the problem, if desired.

SEN. AL BISHOP asked **Mr. Lane** if game-chasing-language in Section 2 was restricted to hoofed animals.

Mr. Lane said the intent of the Section relates to dogs chasing wildlife unless the chase season is underway. Mr. Lane noted there are possibly two issues in this Section: hunting with dogs and dogs chasing animals.

SEN. FRANKLIN asked **Mr. Lane** to define the geographical location of the majority of dog vs. wildlife issues.

Mr. Lane stated the rural, urban interface areas are those areas

of concern.

SEN. PETE EKEGREN suggested that a pack of dogs "ripping up" wildlife is possibly not any worse than wolves attacking wildlife.

SEN. EKEGREN asked if there was a risk associated with feeding grain.

Mr. Lane stated this would probably not be a problem although corn does attract bears.

VICE-CHAIRMAN WELLS asked **Mr. Lane** if FWP would be the only one to know the Conservation License number used on traps.

Mr. Lane said only FWP would have a connection between the Conservation License and the trapper's name. Individual names could not be released due to privacy concerns.

Closing by Sponsor:

CHAIRMAN SPRAGUE closed on SB 104 telling the committee there must be a method for managing dogs chasing wildlife.

VICE-CHAIRMAN WELLS reminded the committee that requests for amendments to the bill should be directed to Mary Vandebosch, Legislative Branch.

ADJOURNMENT

Adjournment: 4:32 P.M.

SEN. MIKE SPRAGUE, Chairman

ROBERTA OPEL, Secretary

MS/RO

EXHIBIT (fis06aad)